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Practitioner's Docket No.: 802\_003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Patrick T. PRENDERGAST

Ser. No.: 10/091,855

Art Unit: 1617

Filed: March 6, 2002

Examiner: Theodore J. Criares

Confirmation No.: 8597

For: COMBINATION THERAPY FOR REDUCTION OF TOXICITY OF  
CHEMOTHERAPEUTIC AGENTS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 23, 2003 under "EXPRESS MAIL" mailing label number EL 99443 5140 US.

*Janet M. Stevens*  
Janet M. Stevens

**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

In response to the Office Action mailed June 23, 2003, applicants hereby provisionally elect, with traverse, to prosecute the claims of Group II (claims 18-44) in this application.

However, applicants respectfully traverse the restriction requirement since the subject matter of claims 1-139 is sufficiently related that a thorough and complete search for the subject matter of the elected claims would necessarily encompass a thorough and complete search for the subject matter of the non-elected claims. Thus, it is respectfully submitted that search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is clearly stated that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits." It is respectfully submitted that this policy should apply in the present application in

order to avoid unnecessary delay and expense to applicants and improper duplicative examination by the Patent Office.

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,



\_\_\_\_\_  
Kevin C. Brown  
Reg. No. 32,402

December 23, 2003

Date

KCB/jms

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